

JAN - 5 2009

Frederick K. Ohlrich Clerk

S17<sup>6</sup>8047, S168066, S17<sup>6</sup>8078

**IN THE SUPREME COURT OF CALIFORNIA**

---

Deputy

KAREN L. STRAUSS et al., Petitioners,  
v.  
MARK B. HORTON et al., as State Registrar of Vital Statistics, etc.,  
Respondents;  
DENNIS HOLLINGSWORTH et al., Interveners.

---

ROBIN TYLER et al., Petitioners.  
v.  
THE STATE OF CALIFORNIA et al., Respondents;  
DENNIS HOLLINGSWORTH et al., Interveners.

---

CITY AND COUNTY OF SAN FRANCISCO et al., Petitioners,  
v.  
MARK B. HORTON et al., as State Registrar of Vital Statistics, etc.,  
Respondents;  
DENNIS HOLLINGSWORTH et al., Interveners.

---

**APPLICATION OF THE TYLER-OLSON PETITIONERS FOR  
PERMISSION TO FILE A REPLY BRIEF EXCEEDING 4200  
WORDS; DECLARATION OF JOHN STEVEN WEST IN SUPPORT  
THEREOF**

---

GLORIA ALLRED, Bar No. 65053  
MICHAEL MAROKO, Bar No. 62013  
JOHN S. WEST, Bar No. 102034  
ALLRED, MAROKO & GOLDBERG  
6300 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90048  
Tel: (323) 653-6530  
Fax: (323) 653-1660  
Attorneys for Petitioners ROBIN  
TYLER and DIANE OLSON, CHERI  
SCHROEDER and COTY RAFAELY


TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF  
THE STATE OF CALIFORNIA:

Pursuant to Rule 8.504 of the California Rules of Court, Petitioners Robin Tyler, Diane Olson, Cheri Schroeder and Coty Rafaely (collectively “the Tyler-Olson Petitioners”) hereby respectfully request permission to file a Reply Brief exceeding 4200 words in S168066. A Reply Brief of 6,895 words has been submitted concurrently with this Application.

The Tyler-Olson Petitioners respectfully submit that good cause exists for the granting of this Application, as set forth in the accompanying Declaration of John Steven West, their counsel.

Dated: January 5, 2009

Respectfully  
ALLRED, MAROKO & GOLDBERG  
GLORIA ALLRED  
MICHAEL MAROKO  
JOHN STEVEN WEST

By   
JOHN STEVEN WEST, Attorneys for  
Petitioners, ROBIN TYLER, DIANE  
OLSON, CHERI SCHROEDER and  
COTY RAFAELY

**DECLARATION OF JOHN STEVEN WEST IN SUPPORT OF THE  
APPLICATION BY THE TYLER-OLSON PETITIONERS FOR  
PERMISSION TO FILE A REPLY BRIEF EXCEEDING 4200  
WORDS**

1. I am an attorney at law licensed to practice before all of the Courts of the State of California. I am a partner in the law firm of Allred, Maroko & Goldberg, counsel of record for Petitioners Robin Tyler, Diane Olson, Cheri Schroeder and Coty Rafaely (collectively “the Tyler-Olson Petitioners”) in case no. S168066. As such, I am familiar with the facts of this matter. The following is true of my own personal knowledge. If called, I could and would competently testify thereto.

2. I am primarily responsible for finalizing and filing the Reply Brief of the Tyler-Olson Petitioners in this matter.

3. Because of the holiday season, and the need to have the Reply Brief reviewed by two of my partners, it was not finalized until late in the evening of Sunday, January 5, 2009. As a result, I was not able to seek or obtain the stipulation of the other parties to the filing of a brief in excess of the 4200 words permitted by Rule 8.504 of the California Rules of Court. I have always granted other counsel professional courtesies.

4. These consolidated cases involve numerous constitutional issues of considerable complexity, and of great importance. The importance of these issues is evidenced by the Supreme Court accepting original

jurisdiction of these matters, and by the Court's specification of issues to be addressed.

5. The Tyler-Olson Petitioners are particularly concerned about what they perceive to be the very adverse consequences of the Attorney General's positions regarding standards for a revision of the Constitution and regarding separation of powers. Because of the complexity of those issues, as well as their fundamental importance of those issues to the protection of civil rights and form of our government, it was not possible to adequately address the Attorney General's arguments, and to distinguish his authorities, in a Reply of 4,200 words or less.

6. I have attempted to address the numerous issues as efficiently as possible in the accompanying Reply, whose length is 6,895 words.

7. For all of the foregoing reasons, I respectfully request permission to file a Reply Brief of 6,895 words.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, California on this 5th day of January, 2009.

  
JOHN STEVEN WEST

**DECLARATION OF SERVICE**

Case Name: **Robin Tyler et al. v. The State of California, et al.**

Case Number: **S168066**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 6300 Wilshire Boulevard, Suite 1500, Los Angeles, California 90048.

On **January 5, 2009**, I served the foregoing document described as **APPLICATION OF THE TYLER-OLSON PETITIONERS FOR PERMISSION TO FILE A REPLY BRIEF EXCEEDING 4200 WORDS; DECLARATION OF JOHN STEVEN WEST IN SUPPORT THEREOF** on the interested parties in this action

- ☒ by placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope addressed **as indicated on the attached Mailing List**
- ☒ **BY MAIL:** I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.
- ☐ **BY PERSONAL SERVICE:** I caused such envelope to be hand-delivered to the offices of the addressee(s).
- ☐ **BY FAX:** by transmitting a true copy via facsimile transmission from telecopier number (323) 653-1660 located at 6300 Wilshire Blvd., Ste. 1500, Los Angeles, California 90048, to the following:

**Executed on January 5, 2009, at Los Angeles, California.**

- ☒ I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

JENNIFER SHUEMAKER

SIGNATURE



**SERVICE LIST**

<b>Supreme Court of California</b> 350 McAllister Street, Rm. 1295 San Francisco, CA 94102-4797 Tel: (415) 865-7000	<b><i>Via email and Federal Express</i></b>  (original + 1 copy)
<b><i>Via U.S. Mail</i></b>	
Edmund G. Brown, Jr. <b>Christopher E. Krueger</b> James M. Humes Kimberly J. Graham Manuel M. Mederios <b>Mark R. Beckington</b> David S. Chaney Louis Muro STATE OF CALIFORNIA DEPT. OF JUSTICE <b>OFFICE OF THE ATTORNEY GENERAL</b> 1300 I Street, Suite 125 [95814] P.O. Box 944255 Sacramento, CA 94244-2550 Tel: 916-445-7385 Fax: 916-324-5567 Email: <u><a href="mailto:Mark.Beckington@doj.ca.gov">Mark.Beckington@doj.ca.gov</a></u>  <i>Counsel for the State of California, Attorney General Bill Lockyer, and Michael Rodrian, State Registrar of Vital Services</i>	Andrew P. Pugno Timothy D. Chandler <b>LAW OFFICES OF ANDREW P. PUGNO</b> 101 Parkshore Drive, Suite 100 Folsom, CA 95630-4726 Tel: 916-608-3065 Fax: 916-608-3066  - and -  Kenneth W. Starr Attorney at Law 24569 Via De Casa Malibu, CA 90265-3205 Tel: 310-506-4621 Fax: 310-506-4266  <u><i>Counsel for Intervenors</i></u> <i>Dennis Hollingsworth, Gail J. Knight, Martin F. Gutierrez, Hak-Shing William Tam, Mark A. Jansson, and Protectmarriage.com; Proposition 22 Legal Defense and Education Fund</i>

<p> <b>Rena M. Lindevaldsen</b>  <b>Mary E. McAlister</b>  <b>LIBERTY COUNSEL</b>  100 Mountain View Road  Suite 2775  Lynchburg, VA 24502-2272  Tel: 434-592-3369  Fax: 434-582-7019 </p> <p> <i>Counsel for Randy Thomasson and  Campaign for California Families</i> </p>	<p> <b>Matthew D. Staver</b>  <b>LIBERTY COUNSEL</b>  1055 Maitland Center Commons  Second Floor  Maitland, FL 32751-7214  Tel: 800-671-1776  Fax: 407-875-0770 </p> <p> <i>Counsel for Randy Thomasson and  Campaign for California Families</i> </p>
--	--